

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION No. 04-10956-WGY

ERNEST OGLETREE,)
Plaintiff)
v.)
CITY OF ATTLEBORO,)
STURDY MEMORIAL HOSPITAL,)
INC., JAMES G. MACDONALD,)
DOUGLAS JOHNSON, MICHAEL)
BARTUCCA, ROBERT ASTIN,)
and LEWIS RHEAUME,)
Defendants)

**PLAINTIFF'S MOTION TO
VACATE DISMISSAL AS
IMPROVIDENTLY GRANTED**

The Plaintiff, Ernest Ogletree, hereby moves this Court to vacate the dismissal of this action pursuant to the Settlement Order of Dismissal entered this date as improvidently granted, on the grounds that the referenced settlement *only* pertains to defendants City of Attleboro and James G. MacDonald, as indicated in the Report re: Reference for Alternative Dispute Resolution submitted on February 7, 2007 by ADR Provider, Dennis J. Calcagno, Esquire. This action has not been resolved as to defendants Sturdy Memorial Hospital, Inc., Douglas Johnson, Michael Bartucca, Robert Astin and Lewis Rheaume, and continues with respect to all of those defendants.

By his Attorney,

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February 8, 2007

CERTIFICATE OF SERVICE

I, Mark F. Itzkowitz, counsel for the plaintiff, hereby certify that on this date, I made service of the within document by serving it electronically to registered ECF participants and/or by mailing/faxing/hand-delivering a copy of same to non-registered ECF participants as indicated on the Notice of Electronic Filing ("NEF"), upon the following counsel of record:

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/s/ Mark F. Itzkowitz
MARK F. ITZKOWITZ (BBO #248130)

Dated: February 8, 2007